

NINTH CIRCUIT SPACE MANAGEMENT PLAN

I. HISTORY AND PURPOSE OF THE PLAN

In 1992 the United States Judicial Conference recommended that each circuit should develop a Space Management Plan. The Space Management Plan should identify space management roles and responsibilities, authorities, and communication channels; assignment and utilization policies; specific delegations of authority; and the approval process and procedures for the acquisition and alteration of space. It should cover all court units in the court: the district court includes the district court executive, clerk of court, chief probation officer, chief of pretrial services, bankruptcy court and clerk; the court of appeals, comprised of the circuit executive, senior staff attorney, clerk of court, bankruptcy appellate panel clerk and circuit librarian. The group further recommended that policies about courts also apply to federal public defenders, unless otherwise noted.

A model plan was developed in January 1995 by the National Space and Facilities Advisory Group to assist judges and judicial employees develop Space Management Plans for the judicial councils, circuit and district courts.

This draft Space Management Plan has been written using the guidelines set forth in the model plan and updated to include new policy and procedures since the model was developed. This Plan will facilitate the management and acquisition of appropriate facilities to serve the functioning of the courts within the Ninth Circuit.

The Plan should be reviewed and commented on by all court units; comments should be incorporated as appropriate, and the Plan should be approved by the Judicial Council of the Ninth Circuit.

II. ROLES AND RESPONSIBILITIES

Providing space and facilities to accommodate the needs of the court units and FPD requires the involvement of the Judicial Council of the Ninth Circuit and its Space and Security Committee (Committee), the Office of the Circuit Executive (OCE), the local court unit, the AO and the General Services Administration's (GSA) regional office and for some projects the national office of GSA. Prospectus level projects require both authorization and funding by Congress. To insure timely responses to requests for space, modifications to space, or funding for projects, each group needs to understand the process and its role.

The U.S. Judicial Conference establishes national policy guidelines. Each circuit judicial council administers policy, and where the authority rests with the judicial councils, sets circuit policy. The U.S. Judicial Conference has standing committees, including the Committee on Security and

Facilities, which are comprised of judges who review specific issues, recommendations from staff, and make recommendations to the Judicial Conference for their action.

In the Ninth Circuit, the Judicial Council has established standing committees, including the Space and Security Committee, which are comprised of judges (and may include judicial employees) who make recommendations to the Judicial Council and may have delegated authority in some cases to make decisions.

A. JUDICIAL COUNCIL

The Judicial Council of the Ninth Circuit is responsible for meeting its basic obligations pursuant to statutes and/or Judicial Conference policies, with respect to providing facilities for courts and related agencies. *These duties include, but are not limited to:*

*review and approve or disallow all requests for space, exchange of space and reduction of space including parking (28 U.S.C. 462(b) and (e); **(Statutory)**)*

*approve chambers for circuit judges at places other than where regular sessions of court are authorized by law to be held (28 U.S.C. 462(c); **(Statutory)**)*

*prioritize and allocate funds for projects funded by the circuit; **(Policy)***

*review all requests for modification of space, except as noted below for projects under \$25,000; (28 U.S.C. 462(b) ; **(Policy)**)*

*review and approve all requests for deviations to the most current U. S Courts Design Guide (U.S. Courts Design Guide 1997); **(Policy)***

*review and approve requests for furnishings that exceed the line item limits set forth by the Guide to Judiciary Policies and Procedures, including the approval of securing interior design services; **(Policy)***

*review Long Range Plans and updated Plans for each district;**(Policy)***

*The Space Management Plan will be provided to all court units, FPD and to the Administrative Office of the U.S. Courts (AO) and the General Services Administration (GSA).**(New Policy)***

The Judicial Council of the Ninth Circuit has the statutory responsibility and authority to approve space accommodations as necessary to meet the needs of the court. The Judicial Council membership includes the Chief Judge of the Circuit, and eight judicial officers, four representing the Court of Appeals and four representing the districts courts. The Judicial Council may delegate authority to a committee or may choose to consider all or some requests for space and/or funding.

B. SPACE AND SECURITY COMMITTEE

The Judicial Council has delegated to the Space and Security Committee authority *to act on its behalf for all requests related to the acquisition, alteration and funding of space; except those which result in deviations to the U.S. Courts Design Guide (Design Guide), and action on the Courthouse Construction Five Year Plan. In addition, the Council permits the Committee to delegate authority to the Circuit Executive when the best interests of the circuit are served.***(Practice)** All actions and decisions done on behalf of the Council by the Committee are subject to review, if necessary, by the Council.

*The Space and Security Committee is appointed by the Chief Judge of the Circuit. The Chief Judge shall determine the membership of the committee. Committee members should represent the breadth and diversity of the Circuit and to that end, may typically include representative(s) of the Court of Appeals; representative(s) of district courts; representative(s) of bankruptcy courts; representative(s) of the clerks of district courts***(Practice)** *The Chief Judge of the Circuit is a member of the Committee. The Ninth Circuit judicial officer(s) who is a member(s) of the national Space and Security Committee of the Judicial Conference and the Circuit Executive shall be a member(s) of the Committee.*

Providing necessary space and facilities is a long and often complicated process, unrelated to the normal business of the court. Prospectus projects often take seven to ten years to complete, requiring several approvals in the process. The issues which come before the Committee require an understanding of current GSA policies, procedures and practices, and changes in regulations and policies which affect the provision of space. In addition, the Congress and the Executive branch may play a role in determining when and how space and funding are provided and what issues regarding space are likely to create controversy. Securing authorization for prospectus projects may require the joint efforts of the local judicial officers with support from the committee membership. For these reasons membership of this Committee requires a longer term than most committees of the Council.

*Members will serve four year terms, with optional reappointment by the Chief Judge for two year periods, not to exceed a total of ten years, unless the Chief Judge determines that a longer term benefits the circuit. The Chief Judge may designate one member of the Committee to serve as Chair.***(New Policy)**

*The Committee meets quarterly in San Francisco, or in locations appropriate to the work of the Committee. Representatives from the AO, GSA and the USMS may be invited to attend some parts of each meeting. In addition, the Committee is called upon to decide issues by mail vote or conference call.***(Practice)**

*The Committee delegates to the Circuit Executive the authority to approve requests: a) for parking so long as they are consistent with the Judicial Conference parking policies and do not exceed five spaces; b) requests to exceed the furnishings schedule using local funds and in cases where there is a compelling need. **(Practice)** The Committee may review requests which the Circuit Executive determines should be denied. .*

C. OFFICE OF THE CIRCUIT EXECUTIVE

The Office of the Circuit Executive, (OCE) serves the Chief Judge and the Judicial Council and its committees by providing staff support and technical assistance. The OCE also provides technical assistance and support to all court units (circuit, district, bankruptcy, probation and pretrial services) and FPD. In the area of space and facilities, the Assistant Circuit Executive for Space and Facilities, under the direction of the Circuit Executive, provides support and technical assistance and supervises the staff of the Space and Facilities Unit. Typical responsibilities of the Unit include: **(all of these below are per current Practice except as specifically noted)**

reviewing all requests for new space, release of space, modifications to space and making recommendations to the Committee;

reviewing all requests for circuit space alteration funds, determining the best resource available to fund specific projects, making recommendations to the Committee for prioritizing use of circuit funds, and notifying requesting court unit or FPD of Committee decisions;

reviewing all requests for use of local funds over \$25,000 (and under \$25,000 in specific circumstances as defined in policy), and making recommendations to the Committee; providing technical assistance at the request of specific courts for both prospectus and non-prospectus projects in support of local court staff, including identifying consultants who can provide specific technical services, and identifying problem solving approaches to space issues as requests are developed; design and cost estimate review; preparing an annual report submitted to the Council, court units and FPD, and quarterly reports to the Committee and Council identifying actions taken, status of circuit funds

committed;

preparing reports and information submitted to all court units and FPD regarding space and facilities policies and procedures;

reviewing Long Range Plans and updates to ensure accuracy of information and consistency, and providing comments to the district court and AO;

reviewing Anycourts (the AO generated document that specifies the amount of space needed for specific projects and that is based on both the personnel needs and the Design Guide) for all prospectus and lease projects; providing technical assistance to the local court units in conjunction with the AO; and preparing recommendations for approval by Committee;

reviewing all requests for deviations to the most current Design Guide; preparing recommendations to the Committee and Council;

reviewing the U. S. Judicial Conference's Courthouse Construction Five Year Plan and making recommendations to the Committee and Council;

preparing various reports as required by the AO, including monthly reports on funding, quarterly reports on deviations to the Design Guide, review of the circuit's Space Call for funding all court unit projects.

D. COURTS

The circuit court and the fifteen districts of the Ninth Circuit function independently, each establishing local practices within the overall policies of the Judicial Conference and Judicial Council. In some districts requests for space, whether for the district or bankruptcy court, probation and pretrial services, are submitted by the chief judge of the district. In other districts, each court unit and FPD is responsible for independently submitting their specific requests with copies to the chief judge of the district. *This local policy should be provided to the Committee.*

Requests for additions to space, release of space, alterations of space, funding from the circuit, and use of local funds when appropriate should be prepared by the court unit and submitted by the designated authority to the Space and Security Committee (through the OCE) for review and approval. The chief district judge should be provided with a copy. The OCE will provide technical assistance in the development of requests as needed by the court unit and FPD. (current practice varies)

Any project which the court unit or FPD wishes to be funded from circuit alterations funds in the current fiscal year should be identified and submitted by the designated

authority (and copied to the chief judge) to the OCE by January 31st of the current year. Requests will be considered based on a priority rating system (defined in Section VI. B below). In those instances where a project is not developed to the point of an estimate, the court unit should provide as much information as possible by this date. The information will be used in providing the Committee with a list of current year funding requests so priorities can be established and funding decisions made.

*Newly appointed judges will be assigned vacant chambers and courtroom space by the chief judge. In existing courthouses, chambers and courtrooms will be accepted as they are configured unless there are significant security and/or operational problems. Spaces in these buildings will not necessarily meet the most current U.S. Courts Design Guide for specific room size; in some cases, rooms may be larger and in other cases, smaller. In addition, finishes may not meet the Design Guide, in some cases finishes will be less than and in other cases greater than the current Design Guide. **The Design Guide specifically states that the standards described in the Guide are NOT an entitlement.** Major modifications to plumbing locations, doorways, hallways and millwork will not be possible in most cases. Changes which would modify the historic character or functioning of the building, exceed Design Guide standards, or policies of the national judiciary or the Ninth Circuit, will not be considered. Limited funding will also restrict the changes which may be considered. **(Practice, except for COA)***

*New judges may request minor modifications made such as painting walls, changing worn wall covering, window covering and carpet as needed and in compliance with local policies and priorities and based on availability of funds. If available chambers do not contain adequate square footage to accommodate the judge and staff, reasonable solutions to accommodate the judge's needs will be considered to the extent funding is available and changes do not impact the character or functioning of the building or exceed Design Guide. **(Practice, except for COA)***

*The Clerk's Office staff, with technical support from the OCE if needed, will work with the judge and GSA to develop a space request. The request, with an estimate, shall be submitted to the chief judge for consideration. If the project is over \$25,000, is under but requires approval per policy, and/or the project is to be paid for from circuit alteration funds, the request shall be submitted to the Committee for review and approval. **(Policy)***

*Irrespective of funding source, space and facilities projects to meet the needs of the court units shall comply with all policies of the national judiciary and the circuit. **(Policy)***

Courts currently have authority to commit local funds up to \$25,000 for alteration projects so long as they do not add/delete square footage, change the rent costs, or are deviations to the Design Guide. These projects should be reported to the OCE, for informational purposes only. (Policy, except they currently do not report these smaller projects to OCE, need to determine if info is available from AO) In order to understand the full cost for space alterations across the circuit, it will be helpful to have this information.

Each court unit and FPD are responsible for preparing reports (e.g. Space Call) regarding space and facilities as requested by the AO. (Practice) The OCE will provide assistance as needed.

In some courts there may be staff who spend a portion of their time addressing space issues. *As a general policy, the Ninth Circuit encourages the practice of hiring local staff to assist with major prospectus projects. (Practice)* To supplement local staff, the OCE will provide technical assistance to the districts on an as needed basis.

When a prospectus project or new lease project will be required as indicated by the district Long Range Plan, a planning document (Anycourt) defining the space needs is prepared by the AO. *The court shall coordinate with all court units, FPD, circuit, and the U.S. Marshals Service (USMS) for requests for prospectus level projects, major leases and major renovation and alterations projects. For smaller projects, the court may delegate responsibility to the local unit when they are not co-located. The Long Range Plan shall be reviewed and updated if needed and reviewed by the Committee in conjunction with approving the Anycourt which is required as a part of approving prospectus projects and major lease projects. (Practice, varies by project)*

During the design phase, court units, FPD and USMS will be asked to review design documents, provide information regarding space requirements and finishes. During construction, court units, FPD and USMS will be required to review and respond to questions regarding space needs, equipment, finishes, and other issues related to their specific spaces.

Each court unit, and FPD are responsible for managing local moves. (Practice) Technical assistance is available from GSA and the AO as well as the OCE.

Court units are encouraged to attend training programs (see Section II.H below) in order to gain a better understanding of the complexity of issues which must be addressed in major projects, including new courthouses and major renovations/relocations.

E. ADMINISTRATIVE OFFICE OF THE U.S. COURTS

The Administrative Office (AO) is the central support entity for the judicial branch. It provides a broad range of administrative, legal, financial, management, program and information technology services to the federal courts. The AO provides support and staff counsel to the Judicial Conference of the United States and its committees, and implements and executes Judicial Conference policies, as well as applicable federal statutes and regulations. The AO facilitates communications within the judiciary, and with Congress, the Executive Branch, and the public on behalf of the judiciary. (Policy) (Administrative Office Goals and Objectives, 1998)

In the area of space and facilities, it is the statutory responsibility of the Director of the AO to:

“provide accommodations, including chambers and courtrooms, only at places where regular sessions of court are authorized by law to be held, but only if the judicial council of the appropriate circuit has approved the accommodations as necessary.” (Statutory) (Title 28 U.S.C., Section 462)

It is the Space and Facilities Division (SFD), under the Office of Facilities, Security and Administrative Services which acts directly to carry out this statutory responsibility by:

- communicating circuit approved court requirements to the GSA who has congressional authority to design, lease, and construct government occupied facilities;

- advising the court and circuit on space requests and facilitating these requests through the GSA processes for providing space.

The SFD also supports and manages this responsibility by :

- providing administrative and technical assistance to courts through program managers;

- coordinates with other AO divisions, the U.S. Marshals Service, U.S. Attorney and U.S. Trustee on major projects;

- budgeting for rent, tenant alterations, furniture, and sound systems, for prospectus and non prospectus projects;

- providing technical consultant services to the courts in areas such as sound system and courthouse technology design, furniture acquisition planning, and space programming and planning services;

- allocating funds to the circuit and courts for non-prospectus tenant alterations based upon directive of the Executive committee of the Judicial

Conference; (Reference document is the yearly tenant allocation letter to circuits)

manages centrally held tenant alteration funds for prospectus level projects; funding for sound systems and furniture for new and existing courthouses, and tenant alteration funds for new judges; (Omnibus and magistrate)

manages and pays rent to GSA out of centrally held funds for court space controlled by GSA.

As a centralized office, the AO deals with courts on a nationwide basis, as well as GSA on the regional and national level. The AO provides guidance on policy, procedure and training on individual space projects as well as information and recommendations to the Committee on Security and Facilities of the Judicial Conference of the US.

To that end the SFD:

provides on-site, or distance training to court units;

produces guidance manuals for courts and GSA on space related issues such as audio and technology in courtrooms, telecommunications, and the capital construction process;

coordinates comments and advises Design Guide Committee on needed clarifications and revisions to the Design Guide, and

facilitates production and updating of Long Range Plans and Anycourts for all judicial districts.

The AO maintains an INTRANET called J NET which is available to all court units through the court's Data Communications Network.

F. FEDERAL PUBLIC DEFENDER

In order to preserve its independence, the Federal Public Defender (FPD) is separated fiscally and procedurally from the AO and the district court. The FPD Division of the AO is responsible for reviewing all local requests for additions and modifications to space. The Design Guide defines the space standards for the FPD and they are used by the national division in reviewing requests. *The national division must approve any local requests before they can be acted on by the Committee and/or Council. The Council/Committee only has authority as to the location of the FPD (Title 28 U.S.C.A*

section 462 (e) (Statutory)

G. GENERAL SERVICES ADMINISTRATION

The General Services Administration (GSA) has the authority and the responsibility to provide space to meet the needs of the judiciary per Title 28 U.S.C.A., §462 (e). GSA has a headquarters office in Washington, D.C. where final decisions are made regarding requests for both prospectus projects funded by Congress each year and renovation and alterations projects that are under the prospectus limits. GSA is divided into 11 regions, with each region responsible for the space in both federally owned and leased space for court units and other federal agencies. The Ninth circuit overlaps all of Regions 9 and 10 and has one district in Region 8.

Each region has a court liaison officer(s) who works closely with the AO, circuit, local court unit and FPD as well as GSA staff to ensure that the courts' needs are met and that GSA standards and court Design Guide standards are followed.

GSA hires consultant contractors for various functions including design services, specialized technical services and construction management services. GSA is responsible for issuing construction contracts for projects ranging from small renovation/alterations work to entire new courthouse projects.

*GSA is required to meet federal contracting regulations, statutes and policies and building standards as identified in the Federal Property Management Regulations (Title 41, Chapter 101 of the Code of Federal Regulations, the PBS-PQ100.2 (Facilities Standards for Public Buildings Service) and other federal regulations, and the GSA Security Criteria (January 1997) (**Policy**). In addition they rely on the judiciary's Design Guide and the Department of Justice's Vulnerability Assessment Study in designing new space and renovating/altering existing space. (**Policy**).*

The GSA regional office is responsible for preparing Community Plans identifying all federal tenants in a geographic area, their needs, and a plan for where each agency will be located (including both federal and leased space) to meet current and future needs. For each prospectus project (new construction and major renovation/alterations) GSA prepares a Feasibility Study outlining alternatives for meeting tenants' needs. Following this study, GSA is responsible for preparing a Prospectus Development Study outlining a specific project. Once these studies are completed GSA must seek funding for a project by submitting a design (or site and design) Prospectus approximately one and one-half years in advance of receiving funds. A second Prospectus for construction must also be submitted prior to funding for that phase of a project. **NOTE: This process is changing and will be updated by GSA when they are asked to review.**

GSA is also responsible for maintaining federal buildings and, in leased buildings either providing this function in the lease or providing the services directly. These maintenance responsibilities include regular services such as cleaning and trash removal as well as maintenance and repair of systems and structures.

In carrying out its responsibilities in the Ninth Circuit, GSA works closely with the local court units, FPD, USMS, the OCE and the AO.

H. TRAINING

The Ninth Circuit encourages all court units to become familiar with the issues related to providing space. Representatives of district courts and the OCE worked with the AO and the Federal Judicial Center (FJC) to develop a national program, Managing a Capital Construction Project, aimed at helping judges and clerks better understand the critical steps in major projects and the various roles and responsibilities. This program is provided by the AO and the FJC with court unit faculty from around the country. In addition, there are other training programs provided by the AO, the FJC, universities and various organizations which court units are encouraged to consider as they prepare for major projects. *It is the policy of this circuit to encourage districts about to embark on major new construction projects to attend these, and any other related training programs which will benefit the court.* (**Practice**)

III. PLANNING PROCESS

A. LONG RANGE PLAN

Every district in the circuit has developed, with the assistance of the AO, a Long Range Plan which is based on a computer model that projects caseload and judgeships over the next thirty years. From that base, a staffing and space needs profile has been interpolated which identifies when the court will require additional facilities within an existing building and/or when an additional or new building will be required.

Since the original Long Range Plans were prepared, policies have changed, particularly related to planning assumptions for district courtrooms and district staffing. These changes may require updating of Long Range Plans in order to accurately reflect the district's future needs given the changes in assumptions. *Plans should be reviewed and updated as needed to provide more accurate information and to include policy changes which may modify planning assumptions. Plans should be reviewed and updated as needed in districts with rapidly changing populations and/or case loads. (Policy, practice varies by district)*

The OCE on behalf of the Committee will participate in the development of and reviews the Long Range Plan and the periodic updates of each district. Updated Long Range Plans are required when requesting approval of space requirements for prospectus level projects, except by permission of the Committee (New Policy, follows national recommendations and what is done in some circuits)

B. U.S. JUDICIAL CONFERENCE'S COURTHOUSE CONSTRUCTION FIVE YEAR PLAN

Each year the Judicial Conference approves a Courthouse Construction Five Year Plan which identifies all requested prospectus level projects nationwide and schedules them in a five year time frame in relation to critical need and anticipated available resources. The plan is based on the submissions of each circuit council which has reviewed and ranked the requests of the courts within its circuit. The Security and Facilities Committee of the Conference annually evaluates the requests of the all circuits and recommends proposed ranking to the Conference. The Conference may adopt or amend the recommendations of its Committee. The five year rolling plan is revisited each year, as projects which may have been recommended may not actually be funded by Congress and emerging critical needs may require a revised ranking of projects. At this time, only prospectus level new construction projects are ranked by the five-year rolling plan. In the future, there may be a need to incorporate major repair and alternation prospectus projects in this plan.

The AO has developed a scoring system for use in ranking all projects nationwide. The criteria for scoring is: year out of space, security concerns, judges impacted and operational concerns. Each year, typically in the fall, the AO sends a draft Five Year Plan to each circuit for review, comments and endorsement. **NOTE: The Judicial Conference is reviewing the Five Year Plan process and may make changes in which will alter how projects are scored and reviewed for inclusion in the plan.** *The OCE will consult with each district regarding the information used for scoring and any other information (e.g. Long Range Plan, Anycourt, project status,) which should be presented to the Committee for consideration in making recommendations regarding project scores, ranking or other pertinent issues.*

The Committee will review the Five Year Plan and OCE report and make a recommendation to the Council. The Council, following the review and recommendation of the Committee, will review and endorse Ninth Circuit projects included in the Five Year Plan.(current Practice)

C. ANYCOURT

Anycourt is the term used to describe a computer model which applies square footage allowances identified in the Design Guide to requirements identified in the courts's Long Range Plan. The Anycourt estimates the square footage needs and serves as the basis for approval of space requests for prospectus projects and major leases. The Anycourt shall be approved by the Committee and, once approved, provided to GSA for use in seeking congressional support for the projects identified in the Five Year Plan. This document must be completed prior to GSA submitting the funding request for design (or site and design when they occur simultaneously).

The AO prepares the Anycourt for each prospectus level project and for major new leases. For new construction projects, the AO will prepare multiple versions of the Anycourt (ten years, thirty years, and in some cases other time periods). The draft Anycourt is sent to the district and to the OCE for review and comments. Upon completion of the final Anycourt, it is sent to the OCE for submission to the Committee.

The Committee reviews the document and approves the square footage for court units and FPD as identified in the Anycourt and consistent with the approved Long Range Plan and current policies. Some Anycourts include square footage needs for other agencies (e.g. U.S. Marshals, U.S. Attorneys, U.S. Trustees, GSA). The Committee does not approve the square footage for these agencies. (current Practice)

Note: The Anycourt is used for planning purposes and is not a Space Program. The Space Program for the design of new space identifies the specific space needs including adjacencies and is done in a separate process, usually by a consultant or the project's architectural firm, in advance of the Concepts phase of design. **(need to determine whether a discussion of the space program should be added. Committee does not act on the program)**

IV. SPACE REQUIREMENTS AND STANDARDS

The provision of space for the judiciary must comply with the judiciary's U. S. Courts Design Guide and must comply with the statutes and regulations for the provision of space and issuance of contracts as required in the Federal Property Management Regulations, Facilities Standards for Public Building Service, Judicial Conference policy and other regulations and policy governing the provision of space.

A. U.S. COURTS DESIGN GUIDE

The AO has developed and the Judicial Conference has approved a U.S. Courts Design Guide which describes the space requirements and standards for district court, bankruptcy court, probation, pretrial services and federal public defender. The most current Design Guide was issued in December 1997. Included in this document are policies for planning assumptions and procedures for requesting exceptions to the Design Guide. The Design Guide specifies the maximum allowable space for areas such as courtrooms and chambers, offices for staff; it delineates policies related to the approval of space and the granting of exceptions; it suggests critical adjacencies for the most efficient functioning of the court. The Design Guide is intended to be used in defining the maximum spaces, not the minimum spaces needed for courtrooms, chambers and staff offices. For many types of spaces such as public areas and file rooms, the Design Guide provides a base which must be adjusted to meet local need. These adjustments must be in keeping with the overall policies and need for controlling project costs.

The Design Guide is periodically updated, and all projects are required to follow the most current Design Guide when beginning the design phase. (Policy) This document is used by GSA and their contractors in the design of new space and renovation/alteration of existing space.

All approved deviations to the Design Guide shall be reported to the AO, who compiles this information and is required to provide it annually to Congress. (Policy)

Any deviation requested by a court unit shall be in writing and should include a justification, that fully explains the work to be performed, why it is needed, and the difference in cost between the requested deviation and the Design Guide solution. The justification must state how the deviation significantly outweighs the costs of implementation. (New Policy)

B. ADMINISTRATIVE OFFICE BENCHMARKS

The AO collected information from court units throughout the nation in 1996 in order to determine the average amount of square feet court units had at the time of the Space Inventory. The information was compiled and averages per person were calculated.

District Clerks	388.9 square feet per person (sfpp)
Bankruptcy Clerks	393.5 sfpp
Probation	326.6 sfpp
Pretrial Services	390.9 sfpp

These benchmarks are used in evaluating requests for increasing existing space as part of the procedures established by the AO in the Interim Guidelines for Acquisition of Space. *Space requests which would result in a court unit exceeding the appropriate benchmark could only be allowed when the Ninth Circuit Space and Security Committee has approved it **and** it is approved as an exception to the policy by the Director of the AO. (policy) (need to discuss the relationship of Design Guide to Benchmarks, no clear policy at national level as to which standard applies when Design Guide is more than benchmark and funding benchmarks are also changing.)*

C. SECURITY CRITERIA

Following the bombing of the federal building in Oklahoma, the USMS conducted a vulnerability study of federal buildings. The study, published in July 1996 identifies four levels for classifying facilities as well as describing types of security systems appropriate for each level. Courthouses are Level 4 buildings, requiring a substantial degree of security. The USMS updated these requirements in 1997.

In January 1997 GSA, working in conjunction with the AO and the USMS, developed a new set of standards for public buildings, the GSA Security Criteria, January 1997. This document addresses the location of a building from the street, the structural components of buildings, glazing requirements as well as many other issues which are a part of providing a secure place for judges and staff, and the public. Courthouses are Class C buildings under these standards.

These standards (Level 4, Class C) apply to all new construction and lease construction, but may not be applied fully in leased buildings and existing courthouses.

Both sets of standards are used in the construction of new space. Buildings funded for construction in FY 1997 received additional funding in order to meet all or most of the new standards. Major lease projects may also be required to meet these standards, particularly build-to-suit leases. (Policy)

V. SPACE AND FACILITIES POLICIES

Following is a brief discussion of various policies which are used in making determinations regarding requests for new space. The full text of the policies is provided in the appendices.

A. PLANNING ASSUMPTIONS AND COURTROOM SHARING

In March 1997 the Judicial Conference adopted a policy on courtroom sharing and planning assumptions to be used in determining the long term needs for courtrooms. As a part of the national policy, circuits were encouraged to develop their own policies. In February 1998 the Ninth Circuit Judicial Council approved the policies for courtroom sharing and planning assumptions for determining courtroom requirements approved by the Conference with the following provisos (see Appendix F for complete text):

The policies are to be used as guidelines and may be modified based on circumstances;

The policies shall be used when updating Long Range Plans and preparing requests for adding/releasing space;

Each district is encouraged to develop a local policy to address senior and visiting judges sharing courtrooms and this policy shall be submitted when requesting additional (or releasing) courtroom space;

Districts shall consider factors such as: workload; years judges are likely to be located in a facility; current complement of courtrooms in the facility and the district; use of special purpose courtrooms, and other pertinent issues.

B. PARKING

The Judicial Conference approved modifications to the parking policy in March 1999. The current policy is in Appendix E.

C. GUIDELINES FOR INCREASING SPACE AND SPACE REDUCTION

In March 1996 the Judicial Conference approved a policy to encourage the reduction of space in order to control the cost of rent and its impact on the overall judicial budget. The Ninth Circuit has cooperated in these efforts and follows the guidelines for increases in space. In addition, local court units have requested releasing space when it is cost effective to do so. The AO has helped fund construction costs for projects that result in rent savings when remodeling will allow additional staff without an increase in space. The full text of these policies and the process for receiving funds for remodeling projects is in Appendix D.

D. NONRESIDENT FACILITIES

The Judicial Conference requires each circuit provide a report on nonresident facilities, with documentation of the use of these facilities, benefits to the community, distance to nearest resident courthouse and other relevant information. The Ninth Circuit currently has a total of fourteen nonresident facilities located in eight districts. In February 1998 this information was reviewed and the Council determined that all facilities should remain open. The most current report and the full text of policy for these facilities is in Appendix F.

VI. SPACE REQUEST PROCEDURES**A. PROJECT TYPES****1. Prospectus Level Projects**

This project type is characterized by a construction cost in excess of \$1.8 million (FY 1998) or, for lease projects, an annual rent of \$1.8 million (FY 1998); cap is adjusted annually.. These projects are typically new buildings, large-scale remodeling work, and building additions. Projects of this type are based on the Long Range Plan of the district and are developed in coordination with the district, GSA, the AO, and the OCE. The space requirements of the court as presented in the Anycourt documents and are submitted to the Committee for review and approval. The OCE informs the AO of the Committee's approval at which time the AO formally requests the space from GSA. Primary funding for these projects is the responsibility of GSA and the AO. Funding is provided directly for each project by Congress. Some incidental funding may come from the Council's annual allocation. GSA is responsible for hiring consultants and contractors to perform the work and meet the court's needs. Responsibility for monitoring these

projects is shared by GSA, the AO, the OCE on behalf of the Council, and the local court. The local court and GSA have the greatest involvement in the project. *Deviations to the scope of work must be reported to and approved by the Committee before proceeding with the work.* Prospectus projects typically require several years from planning through occupancy.

2. Projects \$25,000 to Prospectus Level

This project type costs in excess of \$25,000 but less than the prospectus level adjusted annually (FY99 limit is \$1.89 million.) These projects typically involve significant reconfiguration of existing or acquired space within an existing building. Projects of this type are based on the Long Range Plan of the court and are designed to fulfill, or take a major step toward fulfilling, the court's needs.

The space and financial requirements of the court are to be submitted to the Committee for review and approval. Funds for projects of this type may have been provided by GSA, the AO, the Council, or local court unit/FPD. Requests are made to the Committee through the OCE and will be evaluated in relationship to other needs throughout the circuit, and the project will be prioritized by the annual spending plan of the Judicial Council. If approved, funding is provided and a Request for Work Authorization (RWA) (Appendix G) is issued by the OCE. It is the responsibility of the local court and the OCE to monitor the progress and quality of the work for adherence to the contract documents. *It is the responsibility of the court to monitor the process and quality of the work and to provide certification to the OCE, for purpose of payment, that the work has been completed in compliance with the contract documents. Deviations to the scope of work must be reported to and approved by the Committee, before proceeding with the work.*

3. Projects less than \$25,000

Unless the project involves newly-acquired space, it is not necessary to obtain Committee approval, although all elements of the project must adhere to the Design Guide and policy requirements regarding space and must be consistent with the Long Range Plan of the court.

This project type is characterized by minor remodeling or refinishing of existing or acquired space within an existing building, courthouse or leased space. Projects of this scale typically involve only a few rooms or minor alterations to the space.

For projects \$25,000 and below within previously approved space, the courts in

some years have been directly allocated funds. If there will be any impact on other tenants or systems of the building, notification is to be given to the tenants prior to proceeding. For this size project, the local court unit will issue the Request for Work Authorization (RWA) and be responsible for monitoring the project and tracking of the funding. *If project is funded by the Circuit, the local court unit is responsible for tracking, payment will be made by OCE. If projects estimated at less than \$25,000 cannot be completed for that amount due to unforeseen circumstances occurring during construction, approval of the Committee must be obtained prior to the obligation of additional funds. If no funds are remaining in the court's allocation, the court may request additional funds from the Circuit's allocation.*

4. Leases

When space for federal tenants is not available in federal buildings, GSA serves as the leasing agent in procuring the needed space in commercial buildings. In some cases, leases are for small satellite offices in communities some distance from the courthouse. In other cases, leases accommodate several judges, courtrooms and staff.

GSA is required to follow stringent regulations in the provision of leased space. The court unit, using the Long Range Plan, current staffing and anticipated staffing, and with the assistance of the AO and OCE, must provide a description of the square footage needs and the specific details of how that space must be designed to meet the agency requirements. The agency must define a geographic area where they wish to be located. Prior to soliciting for a lease, GSA must receive a request for space from the AO along with the delineated area where the court unit needs to be located. **Leased facilities may not comply with all Design Guide and federal building standards (re-verify this change with AO/GSA).**

Major lease projects will be complex, requiring close involvement of the court units in the development of the solicitation for space, the design of the space (in some cases a new building, in other cases a major tenant improvements project), and during the construction in order to ensure the court's needs are met. Major leases, in order to stay under prospectus limits shall not exceed \$1.8 million (FY 98) in annual rent. Any lease which will exceed this amount is considered a prospectus lease and must have the approval of Congress before the project can be awarded.

The OCE and AO can provide technical assistance for lease projects.

B. FUNDING REQUESTS/CIRCUIT TENANT ALTERATIONS

The Ninth Circuit receives an allocation of funds for tenant alterations projects each year from the AO. These funds are intended for construction projects in facilities throughout the circuit for which the local court unit does not have funds. The funds are not for use by FPD, nor are they available to fund projects or costs related to projects that are to be paid for through furnishings budgets, telecommunications, security or technology funds. *Court units requesting these funds shall complete the forms provided in Appendix B. The request form and appropriate background information should be sent to the Committee via the OCE Assistant Circuit Executive for Space and Facilities. The OCE will provide technical assistance as needed in developing and reviewing the request and in resolving any problems. The request will be sent to the Committee for review and approval. In approving projects, the Committee will consider the total funding available for all projects and the criticality of each project. The priority of projects will be established using the following criteria: (**Practice**):*

1S Projects essential to security or life safety

1 Projects for first time alterations for new/replacement judicial officers without permanent chambers, or access to a courtroom

2 Projects for first time alterations for new non judicial officers without permanent facilities

3 Projects intended to improve the efficiency of judicial officers space

4 Projects intended to improve the efficiency and utilization of non judicial officers space

5 Projects intended to improve the aesthetics or for convenience

6 Other

After establishing the prioritized spending plan, the Committee will notify all districts requesting funds of the likelihood the requests will be approved. The funds will be encumbered as the Committee determines appropriate. (New Policy) RWAs will be issued, monitored, and billed to the OCE. It will be the responsibility of the individual court units to provide the day-to-day monitoring of the project for its satisfactory execution, in relation to the design and specification, to certify the degree of completion to the OCE so that RWA requests for payment can be assessed and approved. Any money remaining on an RWA at the completion of the project will be deobligated and used by the Council to fund other projects within the circuit. (Practice)

APPENDICES

APPENDIX A: GLOSSARY OF TERMS

APPENDIX B: SPACE REQUEST FORMS/FORM LETTERS TO REPORT DECISIONS

APPENDIX C: STATUTES

APPENDIX D: GUIDELINES FOR ACQUISITION OF SPACE

**APPENDIX E: PARKING POLICY
PARKING Q & A's**

APPENDIX F: COURTROOM SHARING

APPENDIX G: NON-RESIDENT FACILITY REPORT

APPENDIX H: ANNUAL REPORT

APPENDIX I: U.S. DESIGN GUIDE INTRODUCTION

APPENDIX J: POLICIES & PROCEDURES FOR FUNDING TENANT ALTERATIONS

APPENDIX K: FURNITURE AND FURNISHINGS Q & A's